

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

BRANDON DREWRY, )  
                        )  
Plaintiff,           )         1:22-cv-00095-JAW  
v.                    )  
                        )  
WELLPATH, INC., et al. )  
                        )  
Defendants.          )

**ORDER AFFIRMING  
RECOMMENDED DECISION**

The United States Magistrate Judge filed with the Court on August 3, 2022, his Recommended Decision. *Recommended Decision to Dismiss Based on Pl.'s Failure to Prosecute* (ECF No. 19) (*Recommended Decision*). Mr. Drewry, acting pro se, filed his first submission in response to the Recommended Decision on September 15, 2022. *Obj. to Report and Recommended Decision* (ECF No. 22). Mr. Drewry filed on the same date a second submission in response to the Recommended Decision. *Second Obj. to Report and Recommended Decision* (ECF No. 23).<sup>1</sup> Although Mr. Drewry titles each of his submissions to the Court as “Motion to Show Cause and Incur Filing Fee” and writes “in response to ECF [18] Order to Show Cause,” the Court recharacterizes Mr. Drewry’s submissions as objections to the Magistrate Judge’s August 3, 2022, Recommended Decision.<sup>2</sup> See

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<sup>1</sup> Mr. Drewry’s first and second submissions are identical in content, but his second includes an additional attached Certificate of Service.

<sup>2</sup> Mr. Drewry’s titling his filings as responses to the order to show cause is understandable. On July 8, 2022, the Magistrate Judge issued an order to show cause for why the court should not

*Ayala Serrano v. Lebron Gonzalez*, 909 F.2d 8, 15 (1st Cir. 1990) (a court should liberally construe a pro se filer's pleadings); *Doyle v. Town of Falmouth*, No. 2:19-cv-00229-NT, 2019 U.S. Dist. LEXIS 183409, at \*4-5 (D. Me. Oct. 23 2019) ("A document filed *pro se* is to be liberally construed, . . . and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers") (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

The Court reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record, and the Court made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and the Court concurs with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision and determines that no further proceeding is necessary.

Specifically, the Court considered Mr. Drewry's objection regarding his health and financial status. The Court gave Mr. Drewry ample opportunity to prosecute his case on a repeatedly extended timeline, *see Recommended Decision* at 1, and advised him, receiving no timely response, that if he failed to show cause the Court could dismiss his case. *Id.* at 2. The Court has concluded that the Magistrate Judge fully addressed the Court's authority to dismiss an action for a party's failure

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dismiss the Complaint for failure to pay the filing fee. *Order to Show Cause* at 1-2 (ECF No. 18). The Magistrate Judge then issued a recommended decision, discussing Mr. Drewry's failure to respond to the order to show cause and recommending dismissal. *Recommended Decision* at 1-3. Once the Magistrate Judge issued the recommended decision, Mr. Drewry should have objected to the recommended decision, not filed a late response to the order to show cause. Although the failure to object to the recommended decision could be a separate ground for affirming the recommended decision, instead, the Court recharacterized as objections Mr. Drewry's responses to the order to show cause.

to prosecute and, therefore, no further judicial explanation is necessary or appropriate.

The Court AFFIRMS the Recommended Decision of the Magistrate Judge (ECF No. 19) and thereby DISMISSES the Plaintiff's complaint (ECF No. 1).

SO ORDERED.

*/s/ John A. Woodcock, Jr.*  
JOHN A. WOODCOCK, JR.  
UNITED STATES DISTRICT JUDGE

Dated this 21st day of September, 2022